

**LICENCE APPEAL
TRIBUNAL**

**TRIBUNAL D'APPEL EN MATIÈRE
DE PERMIS**



**Safety, Licensing Appeals and
Standards Tribunals Ontario**

**Tribunaux de la sécurité, des appels en
matière de permis et des normes Ontario**

Citation: Vanessa Teles Moreno v. Registrar, Real Estate and Business Brokers Act,
2002

Date: 2019-12-05

Tribunal File Number: 11860/REBBA

Appeal from a Notice of Proposal to Refuse Renewal of Registration as a Salesperson
under Section 10 of the *Real Estate and Business Brokers Act, S.O. 2002, Chapter 30,
Schedule C and Regulations* as amended

Vanessa Teles Moreno

Appellant

and

Registrar, Real Estate and Business Brokers Act

Respondent

DECISION AND ORDER

ADJUDICATOR: Harriet Lewis, Member

APPEARANCES:

For the Appellant: Roshni Sharma, Counsel, August 13, 14, 2019

Alan B. Dyer, Counsel, August 22, November 4, 2019

For the Respondent: Jonathan Miller, Counsel

Heard at Toronto: August 13,14, 2019

Supplemental written argument received: November 4, 2019

REASONS FOR DECISION AND ORDER

BACKGROUND:

- [1] This is a hearing before the Licence Appeal Tribunal (the “Tribunal”) arising out of a Notice of Proposal and a Supplementary Notice of Proposal issued by the Registrar, *Real Estate and Business Brokers Act, 2002* (the “Registrar” and the “Act”, respectively). The Notice of Proposal was dated January 10, 2019 and the Supplementary Notice of Proposal was dated May 20, 2019. These will be referred to collectively as the “Proposal”. The Proposal is to refuse the renewal of the registration of Vanessa Teles Moreno (“Ms. Moreno” or “the appellant”) as a salesperson under the Act.
- [2] The Registrar is proposing to refuse Ms. Moreno’s registration on the basis that she is not entitled to renewal of registration on the following grounds:
- a. Her past conduct affords reasonable grounds for belief that she will not carry on business in accordance with law and with integrity and honesty;
 - b. She made false statements in her applications for registration and renewal of registration.
 - c. She breached a condition of her registration.
- [3] These grounds for refusal reflect the tests set out in s. 10(1)(a) and 10(1)(f) of the Act. A negative finding in relation to any one of the grounds under s. 10(1) disentitles the applicant to registration. The Registrar bears the onus to show that the appellant is not entitled to registration.
- [4] Ms. Moreno was convicted of criminal offences on three occasions between 2007 and 2012. She does not deny any of her convictions but states that they took place several years ago at a particularly troubled time in her life. She says that she is a changed person and that such behaviour is part of her past. She admits to omitting information or providing incomplete information to the Registrar in connection with her applications but maintains that these were errors not intended to mislead. She denies that she breached conditions of her registration. She states that she is a passionate and respected real estate professional who has worked hard to build a successful career that has brought meaning to her life.

- [5] Pursuant to s. 14(5) of the Act, I may direct the Registrar to carry out the Proposal or substitute my opinion for that of the Registrar. Should I determine that the appellant is entitled to registration, I have the authority under the Act to attach appropriate conditions to the registration.

PRELIMINARY MATTERS:

- [6] Within a few days of the conclusion of the hearing of this matter in August 2019, Ms. Moreno retained new counsel who asked to be allowed to provide additional submissions on the merits of the case on the basis that Ms. Moreno had not been properly represented by counsel at the hearing. Without hearing the request as a motion, I decided that in order to help ensure that Ms. Moreno felt that she had had a full and fair hearing, I would receive additional written submissions as to the merits of her appeal. Written submissions were received, as directed, by November 4, 2019. The delay was requested and granted to enable counsel to order and receive the hearing transcripts.
- [7] Having heard the oral evidence and argument in this matter and read the written submissions from the parties and the transcript of the oral submissions provided by the appellant, I cannot conclude that Ms. Moreno was improperly represented at the in-person hearing. Notwithstanding, I have taken the appellants written submissions into consideration in my deliberations and decision.

RESULT:

- [8] For the reasons set out below, I direct the Registrar to carry out the Proposal to refuse the renewal of Ms. Moreno's registration as a salesperson under the Act.

EVIDENCE AND ANALYSIS:

- [9] In this decision I have analyzed the evidence by the issues set out in section 10(1) of the Act. The appellant admits most of the facts underlying the Proposal but provides explanations for her past behaviour and asserts that she has made changes in her life which make it unreasonable for the Registrar to judge her based on actions taken at a difficult time in her life and some years ago. The Proposal asserts that Ms. Moreno's past criminal behaviour is serious enough to warrant a decision to not renew her registration as a salesperson. It also asserts that her behaviour during the period of her registration and in connection with her application

for renewal constitutes further grounds for refusal. The Registrar called two witnesses. Ms. Moreno testified on her own behalf.

Issue: Does the applicant's past conduct afford reasonable grounds for belief that she will not carry on business in accordance with law and with integrity and honesty as set out in s. 10(1)(a)(ii) of the Act?

[10] Angela Volpe is the Manager, Registration of the Real Estate Council of Ontario ("RECO") and supports the Registrar in the administration of the Act. Her testimony provided the context for the Proposal and the factual basis on which the decision to deny Ms. Moreno renewal of her registration was made.

[11] Ms. Volpe described the Act as overseeing the real estate market from the perspective of consumer protection. As such, the Act places great emphasis on registrants' responsibility for compliance with the Act and its regulations. To that end, the application for registration is clear that applicants must answer all questions on the application for registration fully and honestly. In considering whether the prior criminal activity of an applicant is relevant to registration, in any individual case, the Registrar considers any pattern of behavior, the passage of time, the nature of the criminal acts committed, and whether they have caused harm to any individual.

[12] On her initial application for registration, Ms. Moreno disclosed two sets of criminal convictions as follows:

- a. In 2007, she assaulted her then partner Scott Harrison and damaged his property. Despite an undertaking to abstain from communicating with Mr. Harrison, she continued to do so, breaching a recognizance. She was fined, sentenced to 40 hours of community service and put on probation for 3 years.
- b. In 2010, she was charged with impersonation with intent to gain an advantage, obstruction of a police officer and failure to comply with a probation order. She was sentenced to 21 days in jail (to be served intermittently), two further years of probation, and an additional 25 hours of community service.

[13] Put into evidence through Ms. Volpe was a letter from Ms. Moreno dated November 18, 2015 sent in support of her application for registration. This letter was in satisfaction of the requirement that she provide a written statement elaborating on the circumstances of her criminal convictions. In the letter, Ms. Moreno describes events which she says led her to her criminal behavior and her guilt and shame for having committed the offences. In the letter, she attests to a changed attitude to her life evidenced by her attendance at church and counselling, and her "giving back to

her community”. She notes that “Scott and I are still together (14 years). We have a happy, healthy, supportive relationship”.

- [14] On the basis of that letter, and supporting letters from her church and Mr. Harrison, she was registered as a salesperson with conditions. The conditions required her to inform the Registrar’s office of any new charges under the Criminal Code, to provide an original Canadian Police Record Check with any application for renewal; to notify the Registrar immediately of any changes in information provided on the application, and that a copy of the conditions was to be signed by the new broker of record should her registration be transferred to another brokerage. She began real estate practice with Sutton Group About Town Realty Inc. (“Sutton Group”) on May 14, 2016. On May 3, 2018, she transferred to Keller Williams Edge Realty (“Edge Realty”). As of November 29, 2018, she returned to Sutton Group, where she is at present. Her broker of record there is Ed Bagdasarian.
- [15] On February 6, 2018, shortly before her first period of registration would have expired, RECO received an email from Ms. Moreno informing it of an additional set of criminal convictions which occurred in 2012, but which had not been disclosed on the 2015 application for registration. In the email, Ms. Moreno stated that she had just realized that the information had not been provided earlier. She said that was because she had relied on the information set out in the RCMP record check provided with her initial application and in her rush to submit it, she had not noticed that this additional conviction was not shown on the report. Ms. Moreno said that she had recently requested an updated record check from Halton Police for purposes of obtaining a pardon for her convictions, and it showed her third series of convictions. These were for identity theft, possession of stolen goods under \$5,000 and breach of probation.
- [16] The transcript of her sentencing hearing was filed with the Registrar’s materials and indicates that while employed as an executive assistant, Ms. Moreno obtained access to her employer’s passport, charge cards and other documentation for the purposes of assisting him in making an application for permanent immigrant status. She used the documents to purchase a vehicle in her employer’s name but without his knowledge. The vehicle was purchased for her own use and she drove it for several months before her employer realized he was being charged for parking fines he had not incurred. At that point, Ms. Moreno disclosed her actions to him. She had also made the employer’s information available to third parties who used it for criminal purposes. She was sentenced to a nine-month conditional sentence, three months under house arrest, twelve months further probation and 75 hours of community service.

- [17] As it had done in connection with the application for registration, RECO then required Ms. Moreno to submit a statement concerning the circumstances of this third conviction. She sent RECO a letter dated February 12, 2018 which is an updated version of the November 18, 2015 letter. In this second letter, she attributes the reason for her admitted actions to succumbing to the influence of a psychic and the psychic's husband who manipulated her to carry out the criminal acts. She said she has since turned her life around and that she and Mr. Harrison are "still together" and in a "happy, healthy, supportive relationship".
- [18] Ms. Volpe conceded that the record of the third instance of convictions was not on the RCMP record check submitted for the first of Ms. Moreno's applications for registration. Notwithstanding, she does not believe that Ms. Moreno forgot or accidentally overlooked those offences. She stated that whether on the RCMP documentation or not, Ms. Moreno had an obligation to disclose them at the time of her application. Ms. Volpe believes that the convictions were finally disclosed not only because of the application for a pardon, but also because of the upcoming registration renewal deadline. She also thinks that Ms. Moreno's letter explaining the convictions does not help illustrate her suitability for a licence. In her view, it demonstrates a failure by Ms. Moreno to "own her wrongdoing" and to take responsibility for her actions.
- [19] In her testimony, Ms. Volpe was referred to the transcript of the plea and sentencing hearing of January 26, 2012 before Justice Basel. His honour had emphasized the serious breach of trust illustrated by Ms. Moreno's actions; a breach which Ms. Volpe ties directly to the decision of the Registrar to issue the Proposal because of the consumer protection mandate of the Act. Because real estate transactions involve pressure on all involved and large sums of money, and because salespersons are entrusted with clients' personal financial and other information, they must be entirely trustworthy. Ms. Volpe noted the pattern of repeated breaches of probation orders and undertakings in Ms. Moreno's criminal history and the evidence given at Ms. Moreno's 2010 sentencing hearing by her probation officer. He testified that Ms. Moreno was a difficult offender. He said that she had ignored her sentencing conditions by reconnecting with Mr. Harrison, was "not open to taking the partner assault program" which had been ordered and had not yet undertaken any of the counselling and community service conditions of her probation. She had also not met with him as the terms of her sentence required, despite his efforts to accommodate her. Ms. Volpe believes that this history illustrates Ms. Moreno's poor judgement, untrustworthiness in the face of pressure, and a pattern of non-compliance with law.
- [20] Ms. Moreno's oral testimony was charged with emotion. She did not deny any of the acts which led to the criminal charges to which she had plead guilty. She admitted

to having repeatedly breached conditions imposed by her sentences and probation orders. She attributes her behaviour to having grown up in a dysfunctional and abusive family and to having been in an abusive relationship with Mr. Harrison. Ms. Moreno believes that having a real estate career has saved her life by giving her hope and an opportunity to be better. None of her clients has complained about her representation of them. She testified that she always puts her clients' interests before her own material concerns. She filed as an exhibit a printed sheet containing three recent testimonials from clients.

Analysis of the applicant's past conduct under s. 10(1)(a)(ii) of the Act:

- [21] The test in *Ontario v. Mander*, 2018 ONSC 1795 (Div. Ct.) (CanLII) ("*Mander*") suggests that past criminal conduct in and of itself may not preclude registration, particularly if it is dated or a minor conviction. As noted, at the time of initial registration and based on information available at that time, the Registrar determined Ms. Moreno would be registered. Relying on *Mander* in his written submissions, counsel for Ms. Moreno argues that her convictions are now dated, and that on that basis should not be held against her. In contrast, the Registrar's counsel notes that the time between the convictions and the application for registration in *Mander* was some 25 years and that this case is distinguishable. I agree. Ms. Moreno's sentence on the third conviction, including her period of probation, would have been fully served only on September 25, 2013, only two years before her application for registration.
- [22] In written submissions, Ms. Moreno's counsel also argues that her repeated failures to comply with her probation orders on her first two offences were because she had nowhere to live and therefore had to resume contact with Mr. Harrison despite orders and undertakings not to do so. He submits that although it was an abusive relationship she should not be punished for "having had to choose between staying with her abuser and having a roof over her head." The description of her personal circumstances which were provided to the Registrar by Ms. Moreno in her 2015 letter appear to have had resonance with the Registrar because notwithstanding those convictions, she was granted registration as a salesperson at that time.
- [23] There were several instances during Moreno's testimony when her evidence was inconsistent or not credible. For example, although she testified that her relationship with Mr. Harrison had been extremely abusive and that she returned to him because she had no other option for a roof over her head, the letter she provided to RECO in 2015 represented that the relationship at that time was warm and supportive. In the similar letter she provided to RECO in February 2018, she asserted that they were still together in a continuing, warm, domestic relationship, despite her later

testimony that they had in fact broken up in 2016 and that he had moved to the United States.

[24] The argument that Ms. Moreno's convictions were dated does not explain or excuse the acts that led to Ms. Moreno's 2012 convictions or her non-disclosure of those convictions on her application or her failure to comply with the disclosure conditions of her registration when it was granted.

[25] I find that her three sets of criminal convictions illustrate that Ms. Moreno has engaged in a pattern of behaviour of committing crimes of dishonesty and breach of trust which demonstrate a lack of respect for the law and the judicial process, such that the Registrar had reasonable grounds for belief on the basis of those acts that she will not carry on business in accordance with law and with integrity and honesty. Further as is illustrated below, I find that Ms. Moreno's conduct through the period of her registration and application for renewal was such as to support the Registrar's belief that her future integrity and honesty cannot be assured.

Issue: Has Ms. Moreno made false statements on or in connection with her applications for registration or renewal as set out in s. 10(a)(iii) of the Act?

[26] The Proposal alleges that Ms. Moreno failed to make the following disclosures on her application for registration in 2015 and her application for renewal in 2018:

- a. She failed to disclose her 2012 criminal offences; and
- b. She failed to disclose that she had been involved in a personal bankruptcy and falsely disclosed that she had not been bankrupt.

[27] The facts surrounding the failure of Ms. Moreno to disclose her 2012 criminal offences have been addressed above. Ms. Volpe gave further evidence in support of the allegation that Ms. Moreno had failed to disclose that she was involved in a personal bankruptcy.

[28] Ms. Volpe explained that RECO has an interest in whether applicants have been involved in bankruptcy proceedings because their financial history speaks to their level of financial responsibility and to the focus on consumer protection. Salespersons act independently, advising and assisting their clients with very large financial transactions. For that reason, question 4 of Section C of the application asks whether an applicant is bankrupt or has been involved in a personal bankruptcy and refers to relevant documentation that is to be submitted along with the application concerning the bankruptcy. Ms. Moreno answered "no" to that question

on her applications for registration and renewal. Copies of both the application for new registration and renewal were filed with the respondent's documents along with relevant correspondence between Ms. Moreno and Anita Newman, a Client Service Specialist at RECO.

- [29] RECO became aware of Ms. Moreno's bankruptcy only upon receiving her 2018 application for renewal. On that application, she answered "yes" to question 4 about personal bankruptcy. She also answered "yes" to question 4i: "Please confirm if this has been previously disclosed", although RECO had had no indication of such a disclosure. RECO engaged with Ms. Moreno over several months to find out details concerning the bankruptcy. An insolvency search showed that Ms. Moreno had filed for bankruptcy in November 2014, and had been discharged on August 15, 2015, just three months before she first applied for registration.
- [30] Ms. Moreno was asked by RECO to provide an explanation of why her bankruptcy had not been disclosed earlier and for details of the circumstances leading up to her bankruptcy. On September 24, 2018 by an email to Ms. Newman, Ms. Moreno wrote that she had checked the box on her original application in error and that she had misunderstood the question. Her words were "My husband at the time claimed bankruptcy while we were separated, and I thought because we were still married it affected me, but it does not as we had already been separated for several years". Minutes later she wrote again saying "I just found out that I was actually involved because his car and 407 bills were in my name. So, in order for me not to be responsible for the bill, I had to submit and bankruptcy claim as well."
- [31] On January 7, 2019, further to another request by Ms. Newman, Ms. Moreno wrote a more detailed letter of explanation. In that letter, she said that the truth was that she "simply checked the wrong box". She went on to admit that after hearing from creditors with respect to charges her husband had incurred, she had "tracked down" her husband and they had each filed for bankruptcy.
- [32] Analysis of the applicant's statements about her personal bankruptcy in her applications under s. 10(1)(a)(iii) of the Act [32] Although the burden is again on the respondent under this section, the nature of the burden is different than under s. 10(1)(a)(ii). Under this section, the applicant is entitled to registration unless "the applicant... makes a false statement or provides a false statement in an application for registration or for renewal of registration". My task as the Tribunal is to determine whether the appellant made a false statement. I find that she did. The case of *Registrar, Motor Vehicle Dealers Act v. Vernon*, 2016 ONSC 304, addresses whether a false statement was made "knowingly". As counsel for the Registrar noted, furnishing false information in any application under the Act or in any

statement or return required under the Act is also an offence under s. 40(1)(a) of the Act.

- [33] Ms. Volpe does not believe or accept Ms. Moreno's explanation for not disclosing her bankruptcy at the time of her initial application; nor do I. Question 4 makes clear by bolded wording that had Ms. Moreno been involved in a bankruptcy, she was required to provide details and documents. She did not. The bankruptcy filing contains a detailed list of creditors and debts provided to the trustee by Ms. Moreno. Some of these, such as a tuition debt, were personal to her and not specific to her husband. Ms. Moreno's signature or initials appear in five places on the bankruptcy documents. She was discharged only briefly before her application for registration. Given these undisputed facts, I find that her two explanations for not declaring her bankruptcy: first that she misunderstood the question, and then that she simply checked the wrong box, were not credible.
- [34] I find that by admitting that she failed to disclose her bankruptcy on her initial application for registration and in claiming that she had previously disclosed her bankruptcy on her application for renewal, Ms. Moreno made and repeated false statements in her application for registration and renewal, respectively. Ms. Moreno is therefore disentitled under s. 10(1)(a)(iii) of the Act to renewal.

Issue: Did Ms. Moreno breach a condition of the registration as set out in s. 10(1)(f) of the Act?

- [35] According to Ms. Volpe, the Registrar approved Ms. Moreno's registration in reliance on the information provided at the time of Ms. Moreno's application for registration but subject to the specific conditions which it was determined would assist RECO in monitoring her conduct as a practitioner in a regulated industry. As noted earlier, the conditions of registration included a commitment to have a copy of the conditions signed by any new broker of record if her registration was transferred. The Registrar alleges that Ms. Moreno breached the conditions of her registration by failing to have her conditions signed by her new broker of record when she transferred her registration.
- [36] On May 3, 2018, Ms. Moreno transferred from Sutton Group to Edge Realty. Jay Bridle is the broker of record at Edge Realty and he testified on behalf of the Registrar. Mr. Bridle was a credible witness, who admitted that he did not have direct knowledge of pre-employment dealings with Ms. Moreno, but he was certain that he had neither seen nor signed Ms. Moreno's conditions of registration when she was with his brokerage.

- [37] Ms. Moreno was with Edge Realty until November 22, 2018 when she resigned from the agency. Referring to the copy of Ms. Moreno's employment file, Mr. Bridle noted that Ms. Moreno had gone through a standard on-boarding process in a meeting with the Agent Service Coordinator, Vicki Miller with whom he had discussed the matter. He referred to the Independent Contractor Agreement signed by Ms. Moreno and Ms. Miller. Schedule "F" to that agreement is entitled "Conditions" and provides for an incoming agent to certify that "there are no conditions attached to my current registration either through RECO or any other governing body". Ms. Moreno did not sign the schedule. The signature lines were crossed out and below them were the words "see attached form".
- [38] Mr. Bridle testified that to his knowledge, Edge Realty did not receive a copy of Ms. Moreno's conditions until these proceedings and he had no knowledge of the background leading to the conditions until recently and in connection with the Proposal. He understands from Ms. Miller that Ms. Moreno declined to sign Schedule F at the onboarding session and was to provide further documentation. Ms. Moreno had never approached him to discuss either her background or the conditions, although he would have made himself available had she wished to do so. If he had known there were conditions, he would have made enquiries as to why they had been imposed.
- [39] In his time as broker of record at Edge Realty, Mr. Bridle has both accepted and rejected transferees with conditions. His decision on what to do in each case depended on the reason for and nature of the conditions and his assessment of the applicants. He described the structure of the Edge Realty brokerage as allowing everyone who worked there to have access to a wide range of personal and professional information which requires a high level of trust in the salespersons. Had he been aware of Ms. Moreno's conditions and the underlying circumstances, he would have had concerns about hiring her.
- [40] While at Edge Realty, Ms. Moreno completed few if any transactions. Mr. Bridle recalled that he knew she was in financial difficulty and said that she had applied for and received a grant from the agency's charity arm to pay for her rent.
- [41] He received a copy of a November 16, 2018 letter from RECO to Ms. Moreno indicating that a proposal to revoke her registration was being prepared. He then called Ms. Moreno to find out what had happened. He recalls that she told him that she had failed to disclose a bankruptcy on her application for renewal. A few days later, on November 22, 2018, he received a letter of resignation from Ms. Moreno, effective immediately.

- [42] Ms. Moreno's recollection concerning the disclosure and signing of her conditions was both confusing and telling. She testified that she and her sister together attended the on-boarding meeting with Ms. Miller, each hoping to get employment with Edge Realty because of its excellent agent training program. During that meeting, Ms. Moreno mentioned that she "had a past" with her ex partner but admits that she "probably skimmed it" and did not disclose that she had been convicted of identity thefts or breaches of probation. She admitted that she also had not given full details of her convictions to Mr. Bagdasarian at Sutton Realty where she returned to since leaving Edge Realty. The conversation with Ms. Miller had quickly turned to a discussion of their mutual love of dogs and did not return to her past. She was certain that at the time of discussing Schedule F she gave a copy of her conditions, signed by Mr. Bagdasarian, to Ms. Miller and that Ms. Miller wrote the words "see attached form" on Schedule F. She said Ms. Miller did not ask her any questions about the reasons for the conditions.
- [43] Her evidence about what she expected to happen next was unclear and inconsistent. Initially, Ms. Moreno said that the note was made on Schedule F because she did not have a clean copy of her conditions for signature by the broker and was going to provide one later. She later said that she did not provide a clean copy for signing because she did not know how to get one. Still later in her testimony, she testified that she believed that by providing Ms. Miller with a copy of the previously signed conditions, she had satisfied her obligations to fulfill the condition. She assumed Ms. Miller would be arranging to have the broker sign the condition documents. When asked about her responsibility under the condition documents, she replied that she did not think that she had an obligation to personally arrange to have the document signed nor to further disclose the background leading to her conditions and so she did neither. She said her interest was to "hit the ground running and start working".

Analysis of the applicant's breach of conditions of the registration under s. 10(f) of the Act

- [44] As in the case under s. 10(1)(a)(iii), the Act provides that there is an entitlement to registration or renewal unless the applicant is in breach of a condition of the registration. The burden on the Registrar in refusing registration on this ground is to show that there has been a breach of a condition of registration.
- [45] Counsel for Ms. Moreno argues in written submissions that the wording written on Schedule F constitutes an admission by Ms. Miller that she received the copy of conditions signed by Mr. Bagdasarian. Ms. Miller did not testify. I do not have Ms. Miller's evidence that the writing on Schedule F was hers or whether she received the executed condition document or not. However, there was introduced into evidence an exchange of emails of early June 2019 between Ms. Miller and Ms.

Moreno. Ms. Miller indicated that she had expected a set of conditions from Ms. Moreno that had never arrived. In her reply, Ms. Moreno recalled that she had given Ms. Miller a copy of her conditions signed by Mr. Bagdasarian and had understood that Ms. Miller would take care of getting a clean copy and having it signed by the broker.

- [46] I cannot determine from the evidence before me, whether Ms. Moreno gave Ms. Miller the signed form at the on-boarding session or not. But I do not accept Ms. Moreno's counsel's argument that it was reasonable for Ms. Moreno to consider that delivering the copy of the conditions signed by Mr. Bagdasarian to Ms. Miller was enough to satisfy condition (d) on her registration. It was Ms. Moreno's responsibility to ensure that her broker of record had seen and signed off on the conditions at the time of her transfer. By not doing so, Ms. Moreno breached a condition of her registration.
- [47] Ms. Moreno did not immediately notify the Registrar of her 2012 criminal charges nor her personal bankruptcy. She did not take any steps to ensure that her new broker signed her conditions upon the transfer to Edge Realty from Sutton group. In each of these instances, Ms. Moreno breached a condition of her registration. Therefore, I support the Registrar's position that these are a further ground for refusing the renewal of her registration.

Issue: Is this an appropriate case for renewal of registration with conditions?

- [48] In both the oral hearing and in written submission, counsel for Ms. Moreno argued that a refusal to renew her registration as a salesperson would be unduly harsh and unwarranted in the circumstances and asked that I consider registration with conditions.
- [49] In the oral hearing, the argument was made that Ms. Moreno's guilty pleas are evidence of her having taken responsibility for her behaviour. An argument was made that she was a changed person from the one who had committed her criminal offences. She had taken and completed the anger management course mandated by her sentence, had seen a psychologist until the cost became prohibitive, and now speaks to her pastor when in need of guidance. She has been giving back to the community by buying birthday cakes and gifts for children at Halton Women's Place and has always put her real estate clients' needs ahead of her own when advising on transactions. While those facts may be true, they do not sustain a finding that she should be registered in the face of her conviction for a serious criminal act involving a breach of trust, her failure to disclose that conviction and her bankruptcy on her application, and her breach of the conditions placed on her registration.

- [50] In the written submissions, Ms. Moreno's counsel makes an argument that to penalize his client by denying her a renewed licence would result in highly negative consequences to her by defeating the gains she has made in her life to reform and rehabilitate herself. He argues that these consequences are contrary to the policy and goals of the Act and this Tribunal. He proposes a series of conditions involving a 3-month delayed suspension, completion of an ethics course, continuation of current conditions, and review by her counsel of future applications for renewal.
- [51] Counsel for the Registrar opposes renewal with conditions. He correctly points out the duty of this Tribunal which is to apply the statutory tests for entitlement to a real estate licence in the interests of consumer protection. In making my decision, that duty has been my focus.
- [52] Having applied the tests in the Act in the context of the evidence before me, I cannot find that this is an appropriate case for conditions. Ms. Moreno's criminal conduct includes several instances of breaches of undertakings and orders as well as crimes involving breaches of trust. These are evidence of ungovernability and of a continuing pattern of behaviour which reasonably raises concerns with respect to her future behaviour in a regulated industry. Her conduct, both prior to and during her period of registration reflects a pattern of dishonesty, dissembling and failure to take responsibility for her actions. Her evidence of the changes she claims to have made was not substantiated by any persuasive character evidence or expert testimony.

DECISION AND ORDER:

- [53] Having heard the evidence and submissions of the parties, I direct the Registrar to carry out the proposals dated January 10, 2019 and May 20, 2019 and refuse the appellant, Vanessa Teles Moreno, renewal of her registration as a real estate salesperson.

LICENCE APPEAL TRIBUNAL



Harriet Lewis, Member

Released: December 5, 2019